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FACSIMILE TRANSMITTAL SHEET

DATE: November 5, 2002  
TO: Examiner Jeffrey C. Pwu  
USPTO Group 3624  
FAX NO: 703-305-7658  
FROM: Vincent M. DeLuca  
RE: Serial No. 09/373,786

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GROUP 3600

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Number of Pages Including This Transmittal Sheet: 10

MESSAGE, IF ANY:

Please see attached Supplement to Brief on Appeal. (in triplicate).

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2449-103A

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	BEFORE THE BOARD OF PATENT
	)	APPEALS AND INTERFERENCES
James P. LEISTENSNIDER et al.	)	
	)	Appeal No.:
Serial No. 09/373,786	)	
	)	Examiner: Jeffrey C. Pwu
Filed: August 13, 1999	)	
	)	Group Art Unit: 3624
For: METHOD AND SYSTEM FOR	)	
CREATING A PORTFOLIO	)	November 5, 2002
OF STOCK EQUITIES BASED	)	
ON MARKET CAPITALIZATION	)	

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SUPPLEMENT TO BRIEF ON APPEAL

Assistant Commissioner for Patents  
Washington, D.C. 20231

GROUP 360

Dear Sir:

This is a supplement to the Brief on Appeal filed July 29, 2002, responsive to the Notice re "Defective" Appeal Brief mailed on October 31, 2002. Appellants traverse the Notice to the extent that it may be interpreted to require that a new complete brief be filed in triplicate, as Appellants maintain that the Brief as filed fully complies with all the requirements of 37 CFR § 1.192(c), and thus is not defective. However, the following supplement is provided solely in response to the request for clarification of the "Grouping of Claims" statement in the Brief.

### ISSUES

This appeal presents the following issues for decision by the Board:

1) Whether claims 1, 4 and 7 are unpatentable under 35 U.S.C. § 102(e) as being anticipated by O'Shaughnessy, U.S. Patent No. 5,978,778, and are properly rejected on that basis;

2) Whether claims 2, 5 and 8 are unpatentable under 35 U.S.C. § 103(a) as being obvious over O'Shaughnessy and are properly rejected on that basis; and

3) Whether claims 3, 6 and 9 are unpatentable under 35 U.S.C. § 103(a) as being obvious over O'Shaughnessy in view of Bloom, U.S. Patent No. 6,061,663 and are properly rejected on that basis.

### GROUPING OF CLAIMS

Per 37 CFR § 1.192(c)(7), for purposes of appeal, the claims grouped together by the Examiner in each of the three separate grounds of rejection as set forth above, i.e., claims 1, 4, and 7 as one group, claims 2, 5 and 8 as the second group, and claims 3, 6 and 9 as the third group of claims, stand or fall together and will not be argued separately. Thus, as stated in Rule 192(c)(7), for decision on appeal of each separate ground of rejection as listed above, the Board will select a single claim of the group and decide the appeal on the basis of that claim.

Please charge any fee or credit any overpayment pursuant to  
37 CFR 1.16 or 1.17 to Deposit Account No. 02-2135.

Respectfully submitted,

ROTHWELL, FIGG, ERNST & MANBECK, p.c.

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